

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6817**

**BILL NUMBER:** HB 1403

**NOTE PREPARED:** Apr 2, 2005

**BILL AMENDED:** Mar 31, 2005

**SUBJECT:** Insurance Fraud.

**FIRST AUTHOR:** Rep. Thomas

**FIRST SPONSOR:** Sen. Paul

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill establishes the offense of insurance fraud as a Class D felony. It makes the offense a Class C felony if:

- (1) a person commits a second or subsequent offense; or
- (2) the value of property, services, or other benefits obtained by a person as a result of the offense or the economic loss suffered by another person as a result of the offense is at least \$2,500.

It also establishes the offense of insurance application fraud as a Class A misdemeanor.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** *Felony Offenses:* Under current law, fraud, a Class D felony includes knowingly and intentionally making, uttering, or presenting a claim statement containing false, incomplete, or misleading information to an insurer. The bill would eliminate this definition and create a separate crime of insurance fraud, a Class D felony. The penalty for insurance fraud would be enhanced to a Class C felony if it is a second or subsequent offense or if the value of the amount involved is more than \$2,500. Additionally, the definition of an insurer would include a reinsurer, a purported insurer or reinsurer, a broker, or an agent of an insurer.

On average between FY 2000 and FY 2004, there were 35 people a year committed to the Department of Correction facilities for fraud. There are no data available to indicate how many of these resulted from violation of provisions concerning insurance, nor are there data to indicate if more offenders may be convicted of the Class D or Class C felony in this proposal.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances, while a Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months and for all Class C felony offenders is approximately two years.

**Explanation of State Revenues:** *Felony Offenses:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D or Class C felony is \$10,000, which is deposited in the Common School Fund.

(Revised) *Misdemeanor Offense:* Under the bill, a person who knowingly and with intent to defraud makes a material misstatement on an application for an insurance policy would commit a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000, and criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** (Revised) *Felony and Misdemeanor Offenses:* A Class A misdemeanor is punishable by up to one year in jail, and defendants may be detained in county jails prior to their court hearings. If the number of offenders in county jails increases, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** *Felony and Misdemeanor Offenses:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

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